Calendar No. 837

97TH CONGRESS
2d Session

SENATE

REPORT
No. 97-570

RELEASE OF REVERSIONARY INTEREST OF THE UNITED STATES IN CERTAIN LANDS IN ARKANSAS

SEPTEMBER 22 (legislative day, SEPTEMBER 8), 1982.—Ordered to be printed

Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, submitted the following

REPORT

[To accompany H.R. 3881]

The Committee on Agriculture, Nutrition, and Forestry, to which was referred the bill (H.R. 3881) to direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain lands conveyed to the Arkansas Forestry Commission, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such lands to such Commission, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

SHORT EXPLANATION

H.R. 3881 directs the Secretary of Agriculture to release the condition in the deed conveying a certain tract of land in Arkansas from the United States to the Arkansas Forestry Commission. The condition provides that if the tract ceases to be used for public purposes it will revert to the United States. Under the bill, the condition is to be released only if the Commission agrees that: (1) the Commission will not exchange any portion of the tract involved unless the fair market value of the property to be obtained is approximately equal to that of the parcel to be exchanged; (2) after any such exchange the newly-acquired property will be used exclusively for public purposes; and (3) the Commission will not sell or otherwise dispose of any portion of the tract unless the proceeds from the transaction are equal to the fair market value of the interest disposed of and they are deposited in an account open to inspection by the Secretary of Agriculture and are used, if withdrawn from the account, exclusively for public purposes.

89-010 O

S163-9

In addition, the bill permits the Commission, after the release by the Secretary of Agriculture of the condition referred to above, to apply to the Secretary of the Interior to acquire the undivided mineral interests of the United States in the tract in question. The bill directs the Secretary of the Interior to convey such interests upon payment by the Commission of a sum necessary to cover administrative costs of the conveyance, plus either (1) one dollar if it is determined that the tract has no mineral value and is under no active mineral development or leasing, or (2) the fair market value of any mineral interests in the tract.

BACKGROUND AND NEED FOR LEGISLATION

Under the provisions of the Bankhead-Jones Farm Tenant Act, the Secretary of Agriculture in 1980 conveyed a tract of land in the State of Arkansas to the Arkansas Forestry Commission. Title III of the Act authorizes the Secretary of Agriculture to sell, exchange, lease, or otherwise dispose of Federal land that was acquired under the Act for the purpose of land conservation. However, the Act requires that the deed conveying these lands must specify that the land be used only for public purposes and if it ceases to be so used, it shall revert to the United States. H.R. 3881 directs the Secretary to release this "public purpose reverter clause" with respect to a portion of the land conveyed to the State of Arkansas in 1980.

The lands conveyed by the Secretary of Agriculture to the Arkansas Forestry Commission are known as the Southern Arkansas Land Utilization Project and are located in Nevada and Ouachita Counties, Arkansas. The project consisted of 19,443 acres and is now the Poison Spring State Forest which is administered by the Arkansas Forestry Commission.

A private party that owns land adjacent to the tract conveyed by the Secretary to the Arkansas Forestry Commission has a need for some 80 acres of land for expanding its production of pine seedlings for reforestation purposes. The Commission is interested in exchanging that amount of its acreage for land of equivalent value now owned by the seedling producer. However, such an exchange may not take place unless the reversionary interest of the United States is released.

Such an exchange, involving about 80 acres of the tract conveyed to the Commission, would not impair the usefulness of the tract for State forest purposes. Acquisition of the 80-acre parcel, which is particularly well-suited for the production of seedlings, would, however, permit the private owner to assist in fulfilling a need for seedlings for reforestation purposes by other forest landowners in the State of Arkansas. Further, similar valid needs for exchange or other disposition of other portions of the Commission tract may arise in the future.

H.R. 3881, as reported by the Committee, would not only permit the currently proposed land exchange if the conditions of the statute are met, but it would also take care of future situations of a similar nature. Under the bill, the Secretary of Agriculture may release the reversionary interest of the United States in any part of the original tract of land, thus permitting the Arkansas Forestry Commission to dispose of portions of this land, to the extent the land is covered by and described in an agreement between the Secretary and the Com-

mission and the Commission agrees to certain conditions. If any portion of the land is exchanged by the Commission, the property obtained by the Commission would be required to approximately equal the value of the parcel that would be conveyed, and the newly-acquired property would have to be used exclusively for public purposes. If any portion of the land is sold, leased, or otherwise disposed of, the proceeds would be required to equal the fair market value of the property disposed of and would be required to be deposited in a separate account and be used exclusively for public purposes. Therefore, the essential public purpose character of the original transaction would be preserved.

SECTION-BY-SECTION ANALYSIS

Section 1 directs the Secretary of Agriculture, if certain conditions are met, to release, with respect to certain described lands conveyed by the United States to the Arkansas Forestry Commission by a quitclaim deed dated February 11, 1980, the condition in the deed requiring that the lands be used for public purposes and that if they are not so used they will revert to the United States. The section provides that section 32(c) of the Bankhead-Jones Farm Tenant Act shall not apply to such a release. The section conditions the release upon an agreement between the Secretary and the Commission that (1) the Commission will not exchange any part of the lands which have been conveyed to it by the Secretary unless the property to be obtained is approximately equal to the fair market value of the tract to be exchanged and will be used exclusively for public purposes, and (2) the Commission will not sell, lease or otherwise dispose of any part of such lands unless the proceeds are deposited and held in an account open to inspection by the Secretary, are used, if withdrawn from the account, exclusively for public purposes, and are equal to the fair market value of the land or interest that is the subject of the disposition.

Section 2 provides that, subsequent to any release of the condition referred to in section 1, with respect to certain lands in Nevada County, Arkansas, the Arkansas Forestry Commission may apply to the Secretary of the Interior to acquire all of the undivided mineral interests of the United States in any part of the lands to which the release applies and directs the Secretary, subject to valid existing rights, to convey such mineral interests under certain conditions. The section conditions the conveyance of mineral interests upon the payment to the Secretary of the Interior (1) of the sum determined by the Secretary to be necessary to pay the administrative costs of the conveyance, including the cost of determining the mineral character of the lands involved and of establishing the fair market value of such interests, and (2) either one dollar if the parcel is determined by the Secretary to have no mineral value and to be under no active mineral development or leasing, or the fair market value of the mineral interests of the parcel, as determined by the Secretary.

COMMITTEE CONSIDERATION

On July 22, 1982, the Subcommittee on Forestry, Water Resources, and Environment held a hearing on H.R. 3881.

Senator David Pryor and Gary Cargill, Associate Deputy Chief, Forest Service, U.S. Department of Agriculture, testified before Subcommittee Chairman Hayakawa at the hearing.

Senator Pryor explained that the purpose of the legislation is to allow the Arkansas Forestry Commission to exchange an 80-acre tract of the Poison Springs State Forest for an equal acreage of private land, in order to allow a private party to assemble land suitable for expanding production of pine seedlings for reforestation purposes. Such an exchange is not permissible unless the reversionary rights of the United States are released.

Senator Pryor noted that concerns regarding the legislation had been resolved during House consideration. First, the bill was amended to limit the release of the reversionary clause only for those portions of the original land conveyance covered by and described in an agreement between the Secretary of Agriculture and the Arkansas Forestry Commission.

Second, the bill was amended to require the Secretary of the Interior to convey the mineral rights of the United States only with regard to the specified 80-acre tract. Disposal of the reserved mineral rights of the United States on other areas of the State forest would continue to be governed by applicable provisions of existing law, including the Federal Land Policy and Management Act of 1976.

Senator Pryor submitted statements on behalf of Congressman Beryl Anthony, Jr. and the Arkansas Forestry Commission, and indicated Senator Dale Bumpers' support for the legislation.

Gary Cargill, Associate Deputy Chief of the Forest Service, testified that USDA had no objection to enactment of the legislation. He reiterated the need for the bill as related by Senator Pryor, and confirmed that USDA concerns had been met during House consideration.

Following the hearing, the bill was polled from the Subcommittee.

On September 15, 1982, the full Committee met to consider H.R. 3881. Chairman Helms called on Senator Pryor who explained the bill and stated that all concerns regarding the legislation has been resolved.

In the presence of a quorum, the Committee agreed by voice vote to report the bill to the Senate with the recommendation that it pass.

ADMINISTRATION VIEWS

The following statement indicating that the Administration has no objection to passage of H.R. 3881 was delivered by Gary Cargill, Associate Deputy Chief, Forest Service, U.S. Department of Agriculture, to the Subcommittee on Forestry, Water Resources, and Environment:

STATEMENT OF GARY E. CARGILL, ASSOCIATE DEPUTY CHIEF, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman and Members of the Subcommittee, we appreciate the opportunity to present the Department of Agriculture's views on H.R. 3881. We have no objection to the enactment of this bill. Our concerns with the bill have been addressed by the House.

This bill is similar to several bills which Congress has considered over the last several years. It deals with Federal lands conveyed to the State of Arkansas under the provisions of title III of the Bankhead-Jones Farm Tenant Act of 1937. That act authorizes the Secretary of Agriculture to sell, exchange, lease, or otherwise dispose of Federal land that was acquired under the act for the purpose of land conservation. The act requires that the deed conveying these lands must specify that the land be used only for public purposes and if it ceases to be used in that manner, it shall revert to the United States. H.R. 3881 directs the Secretary to release this "public purpose reverter clause" from a portion of a conveyance made to the State of Arkansas under a quitclaim deed made in 1980.

The Southern Arkansas Land Utilization Project, located in Nevada and Ouachita Counties, was one of some 258 land utilization projects in 45 States. These were established on 11.3 million acres of land acquired by the Federal Government from 1933 to 1946. The project consists of 19,442.84 acres and is now the Poison Springs State Forest administered by Arkansas Forestry Commission.

The Secretary of Agriculture entered into an agreement with the State of Arkansas in 1957 to sell the project land. The sale was $1,396,465 or $72 per acre. The sale price included a 30 percent discount to recognize the reservation of minerals by the United States and the reversionary clause. Final payment was made in 1979, and the land was conveyed by quitclaim deed on February 11, 1980.

The bill would require that the land involved in removal of the reverter and the conditions to be applied would be covered by and described in an agreement between the Secretary and the State. It is our understanding that the Arkansas Forestry Commission desires to exchange 80 acres of the State Forest with a private party so that a tree seed orchard, producing genetically superior tree seed, can be expanded. The property received from the private party would acquire the same status as the property being exchanged—it would be used exclusively for public purposes. We believe that the interests of the United States would be protected in this arrangement.

We note the bill contains specific direction regarding disposition of the mineral values on the property. We defer to the Department of the Interior's views on the adequacy of those provisions. We note, however, that action by the House incorporated some of the suggestions by that Department regarding this language.

This concludes my formal statement. I would be happy to respond to your questions.

COST ESTIMATE

I.

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee estimates that only nominal costs will be incurred by the Federal Government as a result of the enactment of this legislation.

II.

The cost estimate prepared by the Congressional Budget Office is consistent with the Committee's estimate. The letter to Chairman Helms from that Office reads as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 20, 1982.

Hon. JESSE HELMS,
Chairman, Committee on Agriculture, Nutrition and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 3881, a bill to direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain lands conveyed to the Arkansas Forestry Commission, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such lands to such commission, as ordered reported by the Senate Committee on Agriculture, Nutrition and Forestry, September 15, 1982.

This bill removes a public purpose reversionary clause from the title of certain lands in the Poison Springs State Forest in order to make possible a proposed land exchange of equal value between the Arkansas Forestry Commission and the International Paper Company, and transfers the public use requirement to the lands received by the commission. The bill also provides for the purchase by the commission of the subsurface rights to the lands proposed for exchange if the commission pays fair market value and all administrative costs associated with the purchase, including the mineral assessment. Based on this review, it appears that no cost to the Federal Government will be incurred as a result of enactment of this legislation.

Sincerely,

ALICE M. RIVLIN, *Director.*

REGULATORY IMPACT STATEMENT

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact that would be incurred in carrying out H.R. 3881.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses; nor will there be any effect on peronal privacy since the purpose of the bill is only to direct the Secretary of Agriculture to release a reversionary interest, held by the United States, in an 80-acre tract of land. A small amount of paperwork will result from the enactment of H.R. 3881 in the form of legal documents that must be filed to consummate the release.

○